

### REMARKS

Initially, Applicants would like to thank the Examiner for the telephone interview with their counsel conducted on February 15, 2007. The discussions during the interview are summarized below.

This document is submitted in response to the final office action mailed October 17, 2006 and the telephone interview held on February 15, 2007. Applicants amended claim 1 to more particularly point out and distinctly claim the subject matter which they regard as their invention. Claims 1-3, 5-26, and 108-111 are presented for examination.

The Examiner rejected claims 1-3 and 5-26 under 35 U.S.C. §102(e) as being anticipated by Kurdikar et al., U.S. Patent 6,043,063 ("Kurdikar").

Claims 1-3 and 5-26 cover methods that include (1) contacting a biomass with a solvent system (including a solvent and a precipitant) to provide a solution (containing a PHA, a solvent, and a precipitant) and (2) applying a centrifugal force to the solution and a residual biomass to separate at least some of the solution from the residual biomass. In other words, the precipitant is used to extract the PHA from the biomass, not to precipitate the PHA from an extraction solution. Kurdikar describes extracting a PHA from a biomass by first dissolving the PHA in a PHA-good solvent to form a PHA-enriched solvent and then recovering the PHA from the PHA-enriched solvent by addition of a PHA-poor solvent. *See, e.g.*, the Abstract and column 4, lines 40-46. In other words, Kurdikar teaches using a PHA-poor solvent (i.e., a precipitant) to precipitate the PHA from the PHA-enriched solvent and then separating the precipitated PHA from the PHA-enriched solvent. Kurdikar does not disclose contacting a biomass with a solvent system including a solvent and a precipitant, a limitation required by claims 1-3 and 5-26. Kurdikar also does not disclose separating at least some of a solution containing a PHA, a solvent, and a precipitant from a residual biomass, another limitation required by claims 1-3 and 5-26. Thus, claims 1-3 and 5-26 are not anticipated by Kurdika. Accordingly, Applicants request reconsideration and withdrawal of this rejection.

The Examiner rejected claims 1-3 and 5-26 under 35 U.S.C. §103(a) as being obvious by Kurdikar in view of Noda, U.S. Patent 5,821,299 ("Noda"), Horowitz, U.S. Patent 6,340,580 ("Horowitz"), or Martin U.S. Patent 6,709,848 ("Martin").

Initially, Applicants would like to point out that Martin was filed on June 12, 2000 and published on March 23, 2004. Since Martin was filed before this application, which has the earliest filing date of August 6, 2002, and was published after this application was filed, it constitutes as a 102(e) prior art reference. As pointed out in the MPEP, 706.02(l)(1), effective November 29, 1999, subject matter which was prior art under former 35 U.S.C. § 103 via 35 U.S.C. 102(e) is now disqualified as prior art against the claimed invention if that subject matter and the claimed invention "were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person." Applicants would like to bring to the Examiner's attention that Martin and this application were, at the time of the invention of this application was made, both owned by Metabolix Inc. As a result, Martin is not qualified as prior art under § 103. However, Applicants recognize that Martin is a continuation of U.S. Application 08/548,840, now U.S. Patent 6,083,729, which was issued on July 4, 2000 and constitutes as 102(b) prior art. Thus, Applicant treat Martin as if it were a prior art reference.

As discussed above, claims 1-3 and 5-26 cover methods that include applying a centrifugal force to the solution and a residual biomass to separate at least some of the solution from the residual biomass. As also discussed above, Kurdikar does not disclose such methods. Nor does Kurdikar suggest such methods. None of Noda, Horowitz, and Martin cure the deficiency in Kurdikar because, similar to Kurdikar, none of these three references discloses or suggests methods that include applying a centrifugal force to separate at least some of a solution containing a PHA, a solvent, and a precipitant from a residual biomass, as required by claims 1-3 and 5-26. None of the these four cited references, alone or in combination, discloses or suggests the methods covered by claims 1-3 and 5-26. There is no suggestion to combine these references to provide such methods, and, even if the references were combined, the result would not be the methods covered by claims 1-3 and 5-26. Thus, Applicants request reconsideration and withdrawal of this rejection.

The Examiner rejected claims 108-111, but did not provide any ground for rejection. For at least the same reasons set forth above, Applicants submit that claims 108-111, which depend from claim 1, are novel and non-obvious over the cited references.

Applicants believe that the application is now in condition for allowance, which action is requested.


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The fee in the amount of \$120 for the Petition for Extension of Time is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply all charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No. 14074-003001.

Respectfully submitted,

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